

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
and Their Impact upon the)
Existing Television Broadcast)
Service)

To: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

HSN, Inc. ("HSNi"), by its attorneys and pursuant to Section 1.429 of the Commission's Rules, objects to the wholesale rearrangement of the DTV Table of Allotments ("DTV Table") demanded by Trinity Christian Center of Santa Ana, Inc. ("Trinity") in its petition for reconsideration of the Fifth and Sixth Reports and Orders in the above-captioned proceeding. ^{1/}

The Commission should not rearrange the entire DTV Table simply to provide preferential treatment to Trinity's low power television and translator stations. In crafting the currently proposed DTV Table, the Commission had to weigh hundreds of competing concerns and interests. It had to examine not only the effect of each digital allotment on the station receiving that allotment, but the effect of the new

^{1/} *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Fifth Report and Order, FCC 97-116 (April 21, 1997); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Sixth Report and Order, FCC 97-115 (April 21, 1997).*

allotment on other broadcast outlets in the region. The immensity and complexity of this task make it likely that the Commission's proposal will require some adjustments after interested parties have carefully analyzed the specific allotments.

Trinity, however, in its petition for reconsideration, calls for a complete transformation of the Commission's present proposal. 2/ Trinity demands that the Commission scrap its presently proposed allocations in more than 100 communities nationwide simply to accommodate Trinity's various LPTV and television translator stations. Trinity does not even explain clearly why its stations -- as opposed to the many other LPTV and translator stations operated by others -- merit this unique treatment, much less why the continued operation of their LPTV and translator stations would justify a complete rearrangement of the proposed table of allotments. Trinity suggests that the Commission should rearrange its current DTV Table only because the content of Trinity's programming is "diverse and unique." 3/ As the Commission surely appreciates, however, the content of an entity's programming should not serve as the basis for affording that entity's LPTVs or translators singularly special treatment. 4/

2/ See Trinity Christian Center of Santa Ana, Inc.'s Petition for Reconsideration, *In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268 (filed June 13, 1997).

3/ *Id.* at 2.

4/ To permit the content of one entity's current programming to affect DTV allotments is not only constitutionally suspect, but makes no sense as a practical matter. A community's DTV allotments ostensibly continue for the entire transition period, and perhaps even longer, but programming on a particular station may change overnight. The Commission can hardly be expected to monitor each LPTV or television translator station's programming continually in order to assure itself that the programming remains sufficiently "diverse" or "unique" to be worthy of interference protection. Even should the Commission decide to risk this administrative and legal


And, in any event, there is no evidence presented by Trinity that its "unique" programming is somehow more deserving than the unique programming offered by the many other similarly situated broadcasters.

Although HSNi disagrees with Trinity's approach, which focuses exclusively on preserving its own LPTV and translator facilities, HSNi supports strongly the policy objective of protecting LPTV and translator stations from displacement in the DTV transition process. HSNi appreciates the valuable services that low power and translator television stations provide their communities. In fact, HSNi itself owns 26 LPTVs, and has affiliations with 22 others. HSNi would support any changes to the DTV Table that would serve to protect existing LPTV stations. Trinity's self-serving proposal does not accomplish this goal.

For the foregoing reasons, the Commission should deny Trinity's petition.

Respectfully submitted,

HSN, INC.

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nightmare, it would be hard-pressed to determine what penalty should befall a station that so changes its programming late in or after the DTV transition period.

CERTIFICATE OF SERVICE

I, F. William LeBeau, an attorney at the law firm of Hogan & Hartson
L.L.P., do hereby certify that on this 18th day of July, 1997 caused to be delivered the
foregoing Opposition to Petition for Reconsideration by first class mail, postage prepaid
to:

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